

ASSEMBLY BILL

No. 2712

Introduced by Assembly Member Daly
(Principal coauthor: Senator Correa)

February 21, 2014

An act to add Chapter 6.655 (commencing with Section 25268.1) to Division 20 of the Health and Safety Code, relating to hazardous materials.

LEGISLATIVE COUNSEL'S DIGEST

AB 2712, as introduced, Daly. Hazardous materials: Orange County Water District.

(1) Under existing law, the Site Designation Committee in the California Environmental Protection Agency is authorized to designate an administering agency for oversight of a remedial action to a hazardous substance release. Existing law requires the administering agency to supervise the site investigation and remedial action conducted by the responsible party and, upon determining that the site investigation and remedial action has been satisfactorily completed, to issue a certificate of completion to the responsible party.

This bill would impose requirements on the Orange County Water District when conducting a remediation project at a hazardous waste release site located in the district and would prohibit the district from implementing a remediation project unless the plan for the proposed remediation project is approved pursuant to the specified procedures. The bill would require the district to develop a plan for a proposed remediation project and to submit the plan, for review and approval, to the Department of Toxic Substances Control, a California regional water quality control board, or a certified unified program agency, as specified.

If the regulatory agency does not approve the plan, the bill would allow the district to submit the plan to the site designation committee for review. The site designation committee would be required to disapprove the plan, approve the plan, or conditionally approve the plan.

If the regulatory agency disapproves the plan and the plan is not submitted for review, or if the site designation committee disapproves the plan, the bill would prohibit the district from seeking cost recovery from a responsible party for the hazardous materials release site pursuant to specified state and local laws. The bill would also prohibit the district from seeking that cost recovery with regard to the parts of a conditionally approved plan that were revised or deleted by the site designation committee.

The bill would impose a state-mandated local program by requiring the district and a certified unified program agency to take specified actions.

(2) The bill would declare that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 6.655 (commencing with Section
2 25268.1) is added to Division 20 of the Health and Safety Code,
3 to read:

CHAPTER 6.655. ORANGE COUNTY WATER DISTRICT
REMEDATION

25268.1. For purposes of this chapter, the following terms shall have the following meanings:

(a) “CUPA” means a certified unified program agency certified to implement the unified program pursuant to Chapter 6.11 (commencing with section 25404).

(b) “Department” means the Department of Toxic Substances Control.

(c) “District” means the Orange County Water District, established pursuant to the Orange County Water District Act (Chapter 924 of the Statutes of 1933).

(d) “Hazardous materials release site” has the same meaning as defined in subdivision (e) of Section 25260.

(e) “Plan” means the plan for the proposed remediation project submitted to the regulatory agency pursuant to Section 25268.2.

(f) “Regional board” means a California regional water quality control board.

(g) “Regulatory agency” or “appropriate regulatory agency” means the department, or the CUPA or the regional board that is responsible for overseeing the implementation of a remediation project by the district.

(h) “Remediation project” means a project that consists of either, or both, of the following:

(1) A remedial action, as defined in subdivision (g) of Section 25260.

(2) A site investigation, as defined in subdivision (i) of Section 25260.

(i) “Responsible party” means a person described in subdivision (a) of Section 25323.5 of this code or subdivision (a) of Section 13304 of the Water Code.

(j) “Site designation committee” means the committee established pursuant to Section 25261.

25268.2. (a) The district shall comply with the requirements of this chapter when conducting a remediation project at a hazardous materials release site located in the district and shall not implement a remediation project unless the plan for the proposed remediation project is approved by the appropriate

1 regulatory agency pursuant to this section or by the site designation
2 committee pursuant to Section 25268.3.

3 (b) If the board of the district elects to implement a remediation
4 project, the board shall approve the remediation project and notify
5 the appropriate regulatory agency that will be overseeing the
6 district's implementation of the remediation project.

7 (c) The district shall develop a plan for the proposed remediation
8 project and shall submit the plan for the proposed remediation
9 project to the appropriate regulatory agency, for review and
10 approval by the appropriate regulatory agency.

11 (d) (1) If the regulatory agency does not approve the plan, the
12 regulatory agency and the district shall promptly meet and confer
13 to resolve the regulatory agency's objections.

14 (2) If, after conducting the meeting specified in paragraph (1),
15 the regulatory agency does not approve the plan, the district may
16 submit the plan for the proposed remediation project to the site
17 designation committee for review pursuant to Section 25268.3.

18 (3) If the district does not submit the disapproved plan to the
19 site designation committee, the district shall not seek cost recovery
20 from a responsible party for the hazardous materials release site
21 pursuant to the provisions specified in paragraphs (1) to (3),
22 inclusive of subdivision (a) of Section 25268.4.

23 25268.3. (a) The site designation committee shall review a
24 plan submitted to it for a proposed remediation project pursuant
25 to the procedures specified in this section.

26 (b) The district and the regulatory agency may present any
27 relevant information to the site designation committee and shall
28 be given a reasonable opportunity to be heard.

29 (c) After reviewing the plan, the site designation committee
30 shall take one of the following actions, impartially and by a
31 majority vote:

32 (1) Disapprove the plan.

33 (2) Approve the plan.

34 (3) Conditionally approve the plan. The proposed conditions
35 may require the district to revise the plan to delete any part of the
36 plan to which the regulatory agency objected.

37 25268.4. (a) If the site designation committee disapproves the
38 plan pursuant to paragraph (1) of subdivision (c) of Section
39 25268.3, the district shall not seek cost recovery from a responsible

1 party for the hazardous materials release site pursuant to any of
2 the following:

3 (1) Division 7 (commencing with Section 13000) of the Water
4 Code.

5 (2) Chapter 6.5 (commencing with Section 25100), Chapter 6.7
6 (commencing with Section 25280), Chapter 6.75 (commencing
7 with Section 25299.10), or Chapter 6.8 (commencing with Section
8 25300).

9 (3) Any other state or local law imposing liability for cleanup
10 of releases of hazardous materials.

11 (b) If the site designation committee deletes any part of the plan
12 as a condition for approval, pursuant to paragraph (3) of
13 subdivision (c) of Section 25268.3, and the district proceeds with
14 the project as conditionally approved, the district shall not seek
15 cost recovery from a responsible party for the hazardous materials
16 release site pursuant to the provisions specified in paragraphs (1)
17 to (3), inclusive, of subdivision (a), with regard to the parts of the
18 plan that were revised or deleted by the site designation committee.

19 SEC. 2. The Legislature finds and declares that a special law
20 is necessary and that a general law cannot be made applicable
21 within the meaning of Section 16 of Article IV of the California
22 Constitution because the Department of Toxic Substances Control,
23 the California regional water quality control board, and the certified
24 unified program agency for the County of Orange have provided
25 and continue to provide oversight for groundwater cleanups at
26 many sites in north and central Orange County, and the Orange
27 County Water District has undertaken investigations and planning
28 for several potential groundwater cleanup projects covering large
29 parts of those same areas, creating the potential for conflicting and
30 inconsistent regulation of businesses and landowners in those parts
31 of Orange County that may be responsible for conducting
32 groundwater investigations and cleanups at their sites.

33 SEC. 3. No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution for certain
35 costs that may be incurred by a local agency or school district
36 because, in that regard, a local agency or school district has the
37 authority to levy service charges, fees, or assessments sufficient
38 to pay for the program or level of service mandated by this act,
39 within the meaning of Section 17556 of the Government Code.

1 However, if the Commission on State Mandates determines that
2 this act contains other costs mandated by the state, reimbursement
3 to local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

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